REMARKS

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-47 are presently pending. Claims amended herein are: 1, 17-31, 39, and 42. No claims are withdrawn or cancelled herein. No new claims are added herein.

Formal Request for an Interview

[0004] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0005] Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

Claim Amendments

[0006] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 17-31, 39, and 42 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features,

and should not be construed as further limiting the claimed invention in response to the cited references.

[0007] Claim 42 is amended to include subject matter from dependent claims 12 and 14. Support for the amendments to claims 1, 17, 25, 31, and 42 is found in the specification at least on page 7, line 17, through page 8, line 4.

Formal Matters

[0008] This section addresses any formal matters (e.g., objections) raised by the Examiner.

Claims

[0009] The Examiner objects to claims 39 for an informality. Herein, Applicant amends these claims, as shown above, to correct the informalities noted by the Examiner.

Substantive Matters

Claim Rejections under § 101

[0010] Claims 17-41 are rejected under 35 U.S.C. § 101. In response, Applicant has amended claims 17-31 to overcome the Examiner's rejections. If the Examiner maintains the rejection of these claims, then Applicant requests additional guidance as to what is necessary to overcome the rejection.

Claim Rejections under §§ 102 and 103

[0011] The Examiner rejects claims 1-3, 5-7, 10-22, 24-28, 30-34, 37-45 and 47 under §102. For the reasons set forth below, the Examiner has not shown that the primary cited reference anticipates the rejected claims.

[0012] In addition, the Examiner rejects claims 4, 8-9, 23, 29, 35-36 and 46 under §103. For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious.

[0013] Accordingly, Applicant respectfully requests that the §102 and §103 rejections be withdrawn and the case be passed along to issuance.

[0014] The Examiner's rejections are based upon the following references alone or in combination:

- **McNally:** *McNally, et al.,* US Patent No. 6,259,448 (issued July 10, 2001) and
- **Weldon:** *Weldon, et al.,* US Patent No. 7,117,158 (issued October 3, 2006).

Overview of the Application

[0015] The Application describes a technology for integrating design, deployment, and management phases for a system in accordance with certain aspects that includes using a system definition model to design a system. The system definition model is subsequently used to deploy the system on one or more computing devices and, after deployment of the system, the system definition model is used to manage the system deployed on the one or more computing devices.

Cited References

[0016] The Examiner cites McNally as the primary reference in the anticipation- and obviousness-based rejections. The Examiner cites Weldon as a secondary reference in the obviousness-based rejections.

McNally

[0017] McNally describes a technology for deploying a "resource model" in a distributed computer network using a computer having graphical user interface (GUI). The resource model has a number of properties associated therewith including a set of mapping rules. To deploy the resource model, an icon representing the resource model is displayed on the interface, together with a set of distribution icons. Each distribution icon, for example, represents a set of given machines in the distributed computer network. The icon representing the

resource model is then associated with a selected one of the distributed icons, preferably via a drag-and-drop protocol. When the resource model icon is dropped onto the selected distribution icon, the resource model is deployed in the network by instantiating its mapping rules at each machine in the set.

Weldon

[0018] Weldon describes a technology for an IVR system that may be designed by accepting designer inputs to generate, on a display screen, a flowchart of interconnected flowchart processing blocks and flowchart decision blocks that represent a process flow of processing steps and branches, respectively, in the IVR system. By allowing the designer to generate a flowchart of interconnected flowchart processing blocks and flowchart decision blocks on a single display screen, a potentially simplified graphical user interface may be provided for designing an IVR system. The flowchart of interconnected flowchart processing blocks and flowchart decision blocks may be executed, based on at least one designer input on a keypad image, to simulate or test the IVR system. A self-documenting audit trail may be provided during the design of the IVR system. These audit trails may be associated with a version of the IVR system, so that multiple versions of the system may be managed. When deploying the IVR system, caller inputs may be sequentially stored in an order in which they were provided by the caller, to provide call logging. Regulatory compliance thereby may be facilitated.

Anticipation Rejections

[0019] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.[1] Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.[2]

Based upon McNally

[0020] The Examiner rejects claims 1-3, 5-7, 10-22, 24-28, 30-34, 37-45 and 47 under 35 U.S.C. § 102(b) as being anticipated by McNally. Based on the clarifying amendments and the reasons given below, Applicant respectfully asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0021] Applicant submits that McNally does not anticipate this claim because it does not disclose the following features as recited in this claim (with emphasis added):

- **"using a system definition model in a development phase of a system to design the system"**

[1] "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

[2] See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

- "subsequently **using the system definition model in a deployment phase of the system to deploy the system** on one or more computing devices"

[0022] In rejecting claim 1, the Examiner cites column 6, lines 25-33 and column 8, lines 1-12 and 31-36 of McNally as disclosing the use of the system definition model to design and deploy the system. Those passages describe a resource model to be associated by an administrative user with one or more managed resources through a graphic user interface (GUI). The GUI enables the user to drag and drop a resource model on an already-developed and deployed resource to facilitate management of the resource. The resource models include rules and other properties for tracking a state of a resource and managing the resource.

[0023] Nowhere, however, does McNally actually describe the use of the resource model during a *development phase* of a resource to design the resource. Rather, McNally explicitly shows and describes the deployment of the resource model to the resource after the development phase, when resource has been already been designed/developed. Further, McNally describes the deployment of the resource model (col. 8, lines 1-12 and 31-36), not the deployment of the resource. Since the resource model is not received by a resource until after the resource has been deployed, it follows that the resource model is not used in the deployment phase of the resource to deploy the resource, as claimed in amended claim 1.

[0024] Also, the resource model described by McNally in col. 6, lines 25-33 is said to have properties including a current state, a set of state rules, a set of controls, and a set of mapping rules. That passage further states that the "'state' of the model describes the modeled resource by an arbitrary set of attributes capturing all aspects of the resource necessary to manage it." Accordingly, the resource module is only taught as possessing information/properties needed to *manage* the resource. No mention is made of any information or properties that would enable resource model to be used in design or deployment of the resource. Thus, not only does McNally fail to describe the use of a resource in design and deployment of the resource, but also fails to describe a resource model that could be used in such operations.

[0025] Consequently, McNally does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Independent Claims 17, 25, 31, and 42

[0026] Amended independent claims 17, 25, 31, and 42 recite features similar to those discussed above with regard to claim 1. Accordingly, claims 17, 25, 31, and 42 are patentable over McNally for at least the same reasons.

[0027] Also, 42 further recites:

- "**using another system definition model to design an environment**, wherein the system is deployed to the environment on the one or more computing devices;"
- "**subsequently using the other system definition model to deploy the environment** on the one or more computing devices; and"
- "after deployment of the environment, using the other system definition model to manage the environment deployed on the one or more computing devices;"
- "**wherein the system definition model includes constraints that must be satisfied by the environment in order for the system to be run on the one or more computing devices, and wherein the other system definition model includes other constraints that must be satisfied by the system in order for the system to be run on the one or more computing devices**"

[0028] Thus, claim 42 recites two system definition models, one for a resource and another for an environment, where the definition model for the system includes constraints that must be met by the environment and the definition model for the environment includes constraints that must be met by the system.

[0029] While McNally does describe multiple resource models, it does not provide any description of resource model constraints that apply to resources

other than those to which the resource models are deployed. As discussed above, resource models include state rules and other similar properties for managing the resources to which they are deployed, but no information/properties/constraints that apply to *other* resources. Thus, claim 42 is patentable over McNally for at least these additional reasons.

Dependent Claims 2, 3, 5-7, 10-16, 18-22, 24, 26-28, 30, 32-34, 37-41, 43-45 and 47

[0030] These claims ultimately depend upon independent claims 1, 17, 25, 31, and 42. As discussed above, claims 1, 17, 25, 31, and 42 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

[0031] Additionally, claims 5 and 6 recite that that "the system definition model includes knowledge describing how to deploy the system on the one or more computing devices." As mentioned above, McNally does not deploy the resources, but rather only the resource models. No mention is made of the resource models including knowledge describing how to deploy the resources, nor would it make sense for them to include such knowledge since the resources are already deployed. Thus, claims 5 and 6 are patentable over McNally for at least these additional reasons.

[0032] Further, claim 14 recites that a "system definition model [for the system] includes constraints that must be satisfied by the environment in order

for the system to be run on the one or more computing devices, and wherein the other system definition model [for the environment] includes other constraints that must be satisfied by the system in order for the system to be run on the one or more computing devices." Nothing in McNally describes this arrangement of resource models for differing resources imposing constraints on each other's resources which must be met for those resources to run. Thus, claim 14 is patentable over McNally for at least these additional reasons.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0033] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Based upon McNally and Weldon

[0034] The Examiner rejects claims 4, 8-9, 23, 29, 35-36 and 46 under 35 U.S.C. § 103(a) as being unpatentable over McNally and Weldon. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

[0035] Weldon is not cited as disclosing the above-discussed recitations of amended claims 1, 17, 25, 31, and 42 and does not disclose those recitations. Accordingly, claims 1, 17, 25, 31, and 42 remain patentable even when Weldon is combined with McNally.

[0036] Claims 4, 8-9, 23, 29, 35-36 and 46 ultimately depend upon independent claims 1, 17, 25, 31, and 42. As mentioned above, claims 1, 17, 25, 31, and 42 are allowable, even over McNally and Weldon combined. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Conclusion

[0037] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action**. Please call or email me or my assistant at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC
Representatives for Applicant

/Robert C. Peck/ Dated: September 15, 2008

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